

Regulatory Services

Dr. Chris Crnich
Director



2003 has been a challenging year for the Food Program in the Division of Regulatory Services. There has been a 45 percent turnover in regulatory staff. Programs have been added to address the dramatic changes that have occurred in the food industry in the last decade. New scientific information has driven how we approach the concept of food safety. Our goal is to reduce the number of foodborne illnesses by applying scientific principles. This is to ensure the consumer receives a safe and properly label food product.

Mission

UDAF works towards accomplishing the food program's mission of ensuring:

- v Foods are safe, wholesome, and sanitary.
- v Food products are honestly, accurately, and informatively represented.
- v These products are in compliance with Utah's laws and rules.
- v Noncompliance is identified and corrected.
- v Unsafe or unlawful products are removed from the marketplace.

Food Program

The number of facilities in a given category and the number of inspections conducted in each category are indicated in the table.

2003 Inspections		
ESTABLISHMENT TYPE	NUMBER	INSPECTIONS
Bakeries	396	717
Grain Processors	10	15
Grocery Stores	1194	1839
Meat Departments	366	669
Food Processors	416	624
Warehouses	262	323
Water Facilities	19	33
TOTAL	2,663	4,220

Enforcement

The Utah Wholesome Food Act has two main laws that are used to evaluate the safety and wholesomeness. First there is adulteration. A food is adulterated if it contains any poisonous substance, which may render it injurious to health, or if it has been produced or stored under conditions whereby it may become contaminated with filth, or rendered diseased, unwholesome, or injurious to health. Misbranding is the second. Misbranding is when food products are improperly labeled or is missing key information.

In order to protect the consumer, food that is suspected of being misbranded or adulterated is prevented from moving in commerce. This is achieved through Voluntary Destructions, Hold Orders and Releases. In 2003, thirty seven (37) hold orders were issued involving 36,224,974 pounds of food. Thirty (30) hold order releases were issued releasing 19,976,561 pounds of food. One hundred (100) voluntary destructions were issued which resulted in 19,817,717 pounds of food being voluntarily destroyed because it was suspected of being adulterated.

Warning Notices

When voluntary compliance cannot be achieved, we take additional regulatory action in the form of Warning Notices and Administrative Action. In 2003, UDAF sent out 71 Warning Notices concerning noncompliance with the Utah Wholesome Food Act (WFA) and the Utah Food Protection Rule (FPR). Ten Cease & Desist orders protected the public from food processed in an unsanitary manner.

Citations

Fifteen citations were issued in 2003. Six were issued to supermarkets, one to a warehouse, and one to a bakery. Citations continue to be an effective enforcement tool.

Food Program Changes

In a year where many states were seeing major budget cuts, the Utah Department of Agriculture and Food (UDAF) received a budget increase. Based on FDA's food program standard number 8, Program Support and Resources, UDAF documented the food program was nine full time equivalents (FTEs) short. This made it very difficult to cover food program areas for which we have regulatory responsibilities. The state legislature recognized this shortage and appropriated funding for two new FTEs based on these findings.

UDAF's shortage in staff has caused up to prioritize and focus our efforts on program areas that maximize our effectiveness. This year our greatest challenge has been the large turnover in staff. Three employees left to work for other agencies and we had two new FTEs to train. UDAF has eleven environmental health specialists. Therefore, 45% of our staff is new. Most of the changes occurred in Salt Lake, so 83% of our office staff was new. Maintaining basic coverage and providing customer service has been very challenging.

Legislation

In the 2004 legislative session House Bill 283 was passed. This bill requires food establishments to register with UDAF. House Bill 283 requires a rule to be written which will allow

UDAF to deny registration, issue a conditional denial or suspend a registration. Fees will be assessed based on risk, square footage, and the number of employees. Many of the details of this new program need to be worked out to achieve a successful program. With the passing of this bill Regulatory Services received another full time employee for the food program.

UDAF is in the process of implementing 21 CFR Part 120 or the Juice HACCP regulations. We have identified the dairy and juice processors within the state and are educating them so they can be in compliance by January 2004.

Egg & Poultry Grading

In 1953, under the direction of then Secretary of Agriculture, Era Taft Benson, the USDA Agriculture Marketing Service was organized. Still today, these services are provided to the consumers and the egg and poultry industries of Utah. These grading services are provided by Utah egg and poultry staff members through cooperative agreements with AMS and the USDA Food Safety and Inspection Service. These grading services allow Utah egg and poultry producers to market their products locally and around the world.

Grading provides a standardized means of describing the marketability of a particular product. Through the application of uniform grade standards, both eggs and poultry can be classified according to a range of quality characteristics. Buyers, sellers and consumers alike can communicate about these characteristics through a common language. The use of the official USDA grade shield certifies that both eggs and poultry have been graded under the continuous inspection of grading personnel.

Program activities include:

- Shell Egg Grading
- Egg Products Inspection
- Shell Egg Surveillance
- Poultry Grading

Shell Egg Grading

As the Utah egg industry has grown and consolidated, the demand for USDA grading services has also increased. In 1988 USDA licensed egg graders of Utah graded approximately 65,000 cases (30 Dozen per Case). During 2003, USDA licensed egg graders graded 895,566 Cases (30 Dozen per Case). This is a record number of USDA graded eggs in Utah. This is approximately a 14% increase over last year.

Egg Products Inspection

In 1970 Congress passed the Egg Products Inspection Act. This made it mandatory that liquid, frozen and dried egg products be processed under continuous inspection. Utah Egg and Poultry staff members provide this inspection in Utah with a cooperative agreement with FSIS.

Basic egg products include whole eggs, whites, yolks and blends, with or without various non-egg ingredients. The further processing of eggs adds greater product stability, longer shelf life, and ease in preparation and storage, as well as product safety. Egg products are used by the food service industry, and as ingredients in other foods such as mayonnaise and ice cream.

During the year 2003, 233,164 (30 dozen per case) cases of shell eggs were processed into liquid or frozen egg products in Utah. This is an increase of about 8% over the previous year.

Shell Egg Surveillance

The Egg Products Inspection Act also requires that all egg producers with over 3,000 layers, firms grading and packing eggs from production sources other than their own, and Hatcheries be registered with the USDA. These firms are visited quarterly to verify that shell eggs packed for the consumer are in compliance, that restricted eggs are being disposed of properly, and that adequate records are being maintained.

Poultry Grading

Utah's Sanpete valley is home to one of the oldest turkey producing cooperatives in the country. Moroni Feed Co. was established in 1938. It is a fully integrated operation providing its members everything from poult to processing and marketing. The Utah Egg and Poultry staff members provide this cooperative with USDA grading services. Moroni Feed Co. processes turkey and turkey products, many of which are USDA graded and then distributed to consumers world wide.

The USDA licensed Poultry graders of Utah graded 88,779,895 lbs. of turkey and turkey products in the year 2003. This is a slight decrease over last years 88,989,110 lbs.

Dairy Compliance Program

The program seeks voluntary compliance to the Utah Dairy Act, Administrative Rules, and the Pasteurized Milk Ordinance (PMO) all of which regulate the state's dairy industry. When voluntary compliance cannot be achieved, regulatory action is initiated. During the calendar year 2003, there were 1,667 inspections conducted; 322 administrative letters written; 47 Grade 'A' permits suspended; and 1 administrative hearing held. Of the 1,155 dairy farm inspections conducted in 2003, 179 inspections, or 16%, found animal drug storage or labeling violations, and 8% of the inspections found prohibited animal drugs on the dairy premises. 28 dairies had their permits suspended for having their milk test positive for antibiotic drug residues, and thus 850,000 pounds of adulterated milk and milk products were removed from commerce and out of the food chain by Utah Dairy Compliance Officers.

New Initiatives

Regulatory Services was given an FDA grant to enhance food safety. We partnered with the Safety Food Institute to develop a grocery store training program. The training was developed around the risk factors identified during the FDA's baseline data collection. Training modules focused on the five practices and behaviors that exceeded a 40% out of compliance during this survey. We gathered data to show changes in an employee's behavior after viewing the five to seven minute interactive programs.

The grant was completed in September 2003. UDAF conducted pre-training inspections and post-training inspections. The results were amazing. Employees were excited about what they were learning. One meat manager had been in the business

for 31 years and did not know the cold holding temperature for potentially hazardous food. He was so proud that he had finally learned the temperature. He went through all the tapes and captured the highlights. He laminated them and hung them on the wall of the meat department for people to understand and use. Many employees wondered why they had never been given this basic information before. Despite the high turnover rate among the employees, they gained knowledge in food safety principles pertaining to their operation.

Goals for the Upcoming Year

The Utah Wholesome Food Act was modified with the passing of House Bill 283. This is a very large project that will require a great deal of communication and cooperation between programs and divisions to be successful. The initial phase of this project, which includes educating the compliance officers, notifying industry, setting up a database, website development, and development of an enforcement plan, is critical. Many details still need to be worked out.

UDAF developed a strategic implementation plan to implement the requirements of House Bill 283. The plan is a growing and evolving as new areas are identified and explored. Industry's input is critical to the success of this plan.

Bedding, Upholstered Furniture & Quilted Clothing

The purpose of the Bedding, Upholstered Furniture, Quilted Clothing Program is to protect consumers against fraud and product misrepresentation, to assure Utahns hygienically clean products and to provide allergy awareness before purchase of these articles. Utah law requires manufacturers, supply dealers, wholesalers, and repairers of these products and their components to obtain an annual license before offering items for sale within the state. Application forms (printable in Adobe Acrobat), and other program materials are available at the following URL: <http://ag.utah.gov/regsvcs/bedding.html>

Product labels are required to indicate whether the product is made with new or used filling materials and to disclose those materials by generic name and percentage. This enables consumers to make price/value/performance-based buying decisions. It also encourages fair competition among manufacturers by establishing uniformity in labeling and component disclosure.

Annual license fees fund an inspection program that allows products to be examined and tested to ensure contents are accurately labeled and free from filth and other contaminants. During 2003, 1703 licenses generated \$91,445.00 in general revenue making the program self-sustaining.

In recent years, the percentage of products being produced outside the United States has grown rapidly. This increases the need for regulation to maintain a level playing field for US manufacturers. It also increases the need for product scrutiny and examination to prevent importation of prohibited plant and animal products which might contaminate US food or fiber sources.

One issue currently impacting the bedding industry may eventually apply to upholstered furniture as well. California's Technical Bulletin (TB) 603 published this year, requires mattress sets to be resistant to open flame. California plans to begin

enforcing those requirements by January 1, 2005. Current national regulations only require that mattress sets are smolder resistant, but the federal government is considering implementing open flame requirements as well.

Due to intensified concern about the number of household fires resulting from children playing with matches and candles in bedrooms, California is currently working on TB 604 which could be published as early as 2005. This bulletin would require that top of the mattress bedding (sheets, comforters, blankets, pillows, etc) also be resistant to open flame. These regulations will probably increase the consumer cost of such products, but may also decrease the number of fatalities resulting from house fires.

Another other issue currently troubling mattress manufactures are the 30/60/90 day mattress "love it or exchange it" guarantees offered by furniture retailers. In Utah and many other states, mattress sets are considered "Secondhand" once they have been in someone's home and must be tagged as such.

The International Sleep Products Association (ISPA) is asking the National Government to take over bedding regulation. Uniformity in regulation would help manufacturers who are often confused by the varying requirements in different states. However, this would also allow the US government to determine whether USED bedding should be labeled "SECONDHAND" and to set new criteria which might be less strict. In the past federal agencies often haven't had adequate funding and/or personnel to enforce the regulations they write. In such cases, they usually request states to enforce the federal regulations.

Food Labeling

The State of Utah has adopted labeling regulations as set forth in the Code of Federal Regulations (CFR) and reviews labels to assist manufacturers to comply with these regulations. Label reviews help new producers avoid costly reprinting of incorrect labels and help assure that consumers get complete and accurate information in a uniform format on all food products.

Proper labeling of food ingredients is a vitally important issue to consumers who have food sensitivities or other dietary restrictions. Reports of allergic reactions to incompletely or incorrectly labeled foods continue to increase. Manufacturers are responsible for ensuring that food is not adulterated or misbranded as a result of undeclared allergens. The Food & Drug Administration (FDA) believes the following foods account for more than 90% of all food allergies: legumes, milk, eggs, fish, crustacea, mollusks, tree nuts, and wheat.

The CFR provides that spices, flavors, and certain colors used in foods may be declared collectively without naming each one individually. However, in some instances, these ingredients contain sub-components that are allergens. Evidence indicates that some food allergens can cause serious reactions even when present in very small amounts. Therefore, the presence of an allergen, even as a sub-component of another ingredient, must be listed in the ingredient statement.

On July 9, 2003, FDA issued a regulation requiring manufacturers to list trans fatty acids, or trans fat, on the Nutrition Facts panel of foods. With this rule, consumers will have more

information to make healthier food choices and thus lower their consumption of trans fat as part of a heart-healthy diet. Scientific studies have determined that consuming foods containing trans fat, saturated fat, and cholesterol, raise levels of LDL-cholesterol and increase the risk of coronary heart disease.

Vegetable shortenings, some margarines, crackers, cookies, snack foods and other foods made with or fried in partially hydrogenated oils are sources of trans fat. FDA has not set a "Daily Value" for trans fat intake or defined it to allow such statements as "low in trans fat" or "trans fat free". However, they are urging consumers to keep their consumption of trans fat as low as possible. Food manufacturers have until Jan. 1, 2006, to list trans fat on nutrition labels.

FDA estimates that by January 2009, trans fat labeling will have prevented from 600 to 1,200 cases of coronary heart disease and from 250 to 500 deaths each year.

Correct and complete food labels help to protect consumers and contribute to a safe and healthful food source for all of us. However, consumers are still ultimately responsible to read and understand the label and make choices based on their personal need.

Weights & Measures

The Weights and Measures Program involves all weights and measures of every kind and any instrument or device used in weighing or measuring application. The purpose of the program is to ensure that equity prevails in the market place and that commodities bought or sold are accurately weighed or measured and properly identified. Unannounced inspections are routinely conducted. Weights and Measures also respond to consumer complaints. These activities are enforced through the Utah Weights and Measures Act and five accompanying administrative rules.

In the year 2003, emphasis was given to consumer protection in the area of price verification, package inspection, liquefied petroleum meters, scale inspections, gasoline pumps and petroleum and water meters.

The Weights & Measures Program operates in the following areas:

General Inspections

Scales are inspected to insure that they are accurate for the services in which they are used, installed properly, and positioned so that customers can see the display.

Weights and Measures inspectors pump fuel into a certified test measure to check for the accuracy of the amount of product delivered by the dispenser.

Scanner Inspections may be conducted in any type of store. Scanner pricing errors adversely affect retailers and consumers. Retailers lose profits on undercharges and consumers lose money on overcharges. Price Verification inspections ensure that consumers are charged the advertised price for the items they purchase.

Weights and Measures officials check packaged products to be sure they contain the quantity stated on the label. Inspectors take random samples of packages in stores and count the items in the packages. Officials weigh or measure the contents to see if the labeled quantity is accurate.

Our inspectors checked 6,330 small capacity scales (0 – 999lbs.) and 16,203 gasoline pumps. Every type of item is subject to either a scanning inspection, package checking, or label review. In 2003, there were 419 package check inspections. Package inspections verify the net quantity statement. In 2003, 605 scanner inspections were conducted verifying prices at the checkout stands.

Large Capacity Scales

Large-scale capacities include 1,000 lbs. and up. These devices may include scales used for weighing livestock, coal, gravel, vehicles, etc., within inspections conducted at auction yards, ranches, ports of entry, mine sites, construction sites, gravel pits and railroad yards, etc. A total of 1,380 large capacity scale inspections were conducted in 2003.

Liquefied Petroleum Gas Meters

Our weights and measures LPG inspector provides inspections to all Utah Vendors dispensing LPG either through dispensers or delivery trucks. In 2003, there were 310 propane meters inspected throughout the state. These inspections included checking appropriate installation and calibration of propane dispensers and meters.

Large Capacity Petroleum & Water Meters

Inspections are conducted on airport fuel trucks, fuel delivery trucks, cement batch plant water meters and other large meters. There were 463 inspections conducted in 2003.

Metrology Laboratory

The Metrology Laboratory is operated and maintained by one person. The state maintains standards of mass, length, and volume. In the year 2003, 953 artifacts from industry and 208 artifacts from the Utah Weights and Measures Program were tested for a certificate of calibration certificate. These include calibration services in mass, length, and volume, using standards that are traceable to the National Institute of Standards and Technology.

Consumers rely on the services of this facility to certify equipment used for weight, length or volumetric measurement in commercial business.

Motor Fuel Laboratory

The Motor Fuel Laboratory maintains a high standard of testing for motor fuel quality. For the year 2003, 58 complaint cases required investigation and validation of claims. Of the 58 cases, 50 were determined to be valid requiring further investigation. 22 of the cases that were investigated resulted in helping consumers recoup monetary losses of approximately \$10,000. This money was recovered from major fuel companies and insurances. The compensation was for repairs performed on vehicles with fuel related damage that had been properly and accurately diagnosed by professional mechanics. After the diagnosis by the professional mechanics, Utah Motor Fuel Testing Laboratory also verified the validity of the claims.

As population and industry growth continues, so does the need to provide weights and measures inspection services.